

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**TERESA R. ROBERTS,**

**Plaintiff,**

**v.**

**CIVIL ACTION NO. 2:04cv 61  
(Maxwell)**

**JO ANNE B. BARNHART,  
COMMISSIONER, SOCIAL  
SECURITY ADMINISTRATION,**

**Defendant.**

**ORDER**

It will be recalled that by Order entered on March 9, 2005, the Court dismissed the above-styled social security action for failure to prosecute and for failure to comply with the Court's Order of November 22, 2004, which Order directed the parties to file their Motions for Summary Judgment on or before January 24, 2005. It will further be recalled that on March 22, 2005, Counsel for Plaintiff filed a Motion for Reconsideration of Plaintiff's Motion for Judgment on the Pleadings and Motion to Vacate Opinion Memorandum and Judgment Order.

On April 28, 2005, the Court entered an Order referring the matter to United States Magistrate Judge John S. Kaull. The docket indicates that a hearing on Plaintiff's Motion for Reconsideration of Plaintiff's Motion for Judgment on the Pleadings and Motion to Vacate Opinion Memorandum and Judgment Order was held by the Magistrate Judge on May 10, 2005. Thereafter, on September 30, 2005, Magistrate Judge Kaull filed his Report and Recommendation, wherein the parties were directed, in

accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the Report and Recommendation. No objections to the Magistrate Judge's Report and Recommendation have been filed.

Upon examination of the report from the Magistrate Judge, it appears to the Court that the issues raised were thoroughly considered by Magistrate Judge Kaull in his Report and Recommendation. Moreover, the Court, upon an independent de novo consideration of all matters now before it, is of the opinion that the Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in this action. Therefore, it is

**ORDERED** that Magistrate Judge Kaull's Report and Recommendation be, and the same hereby is, accepted in whole and that this civil action proceed in accordance with the recommendation of the Magistrate Judge. Accordingly, it is further

**ORDERED** that the Court's Order of March 9, 2005, dismissing this case be, and the same hereby is, **VACATED** and this matter is hereby **REINSTATED** on the Court's docket. It is further

**ORDERED** that the Plaintiff's Motion to Withdraw, filed June 1, 2005, be, and the same hereby is, **DENIED as MOOT**. The Supplemental Memorandum in Support of Motion for Judgment on the Pleadings shall be considered in deciding the underlying case.

The Court having seen and inspected the Defendant's Motion For Summary Judgment, filed January 24, 2005, and the Plaintiff's Supplemental Memorandum in Support of Motion for Judgment on the Pleadings, it is further

**ORDERED** that, pursuant to 28 U.S.C. §§ 636(b)(1)(A) and (B), Rule 72 of the Federal Rules of Civil Procedure, and Rule 7.02(c) of the Local Rules of Civil Procedure, said Motions, and all future motions, are **REFERRED** to United States Magistrate Judge John S. Kaull. The Magistrate Judge is authorized to conduct any necessary proceedings in determining the motions or in preparation for submission of the proposed findings of fact and recommended disposition.

The Clerk is directed to transmit copies of this Order to counsel of record herein.

**Enter:** January 23<sup>rd</sup>, 2006

**/s/ Robert E. Maxwell**

United States District Judge